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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/088,042

07/11/2002

Murray Edward Bruce Leighton

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EXAMINER

HARMON, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

08/21/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/088,042	<b>Applicant(s)</b> LEIGHTON, MURRAY EDWARD BRUCE	
	<b>Examiner</b> Christopher R. Harmon	<b>Art Unit</b> 3721	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 15-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

1. The Supplemental Amendment filed 6/8/09 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 15-16, 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Erden (US 6,017,412).

Van Erden discloses a method of sealing lengths of reclosable fastener to a continuous substrate 34 at spaced predetermined intervals along the length of the substrate comprising presenting lengths of fastener 10 extending transversely to the elongate substrate; see figure 3; the lengths 10 comprising body portion (first and second profiles) and flange portions 24 with a thickness as claimed; fastener lengths are initially attached to the substrate at flange portions 24 leaving body portion free for movement; see col. 5, lines 6+; subsequently passing combinations between sealing jaws 56 which displace in order to perform a final sealing of the package comprising the substrate and fastener combination and sealing flanges 26 to the substrate 34; see col. 5, lines 45+. It is uncertain whether or not the final sealing of this embodiment of Van Erden includes sealing body portions of the fasteners to the substrate 34 ie. end portions (and to each other) as discussed in col. 5, lines 3+ or if the sealing is only

regulated to the trailing flange portions 26. Note that Van Erden discusses sealing across the entire opposing ends of the fastener as shown in figure 4. It would have been obvious to one of ordinary skill in the art at the time of the invention to include sealing the body portions to the substrate as well as the trailing flanges by the reciprocating final sealers of Van Erden order to ensure the zipper from completely separating.

Regarding claim 18, Van Erden discloses an embodiment where single flanges 26 extend from body portions however is initially sealed across the width of the ends (not in a body free manner as claimed). It would have been obvious to one of ordinary skill in the art to seal only the flange initially and then subsequently seal the body portion at the final sealing stage as accomplished by Van Erden's embodiment with leading and trailing flanges.

Regarding claim 19, Van Erden discloses posts 16 and heel 18 located at opposing lateral margins with angled contact surfaces; see figures 1 and 2.

4. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Erden (US 6,017,412) in view of Herber et al. (US 5,519,982).

Van Erden does not directly disclose aligning first and second parallel webs of material and attaching the flanges while the webs are facing one another however Herber et al. discloses forming pouches from flexible materials comprising forming opposing bag walls from first and second parallel webs as claimed; see figure 6, as an alternate to folding a singular web into opposing first and second webs as shown in figure 9. It would have been obvious to one of ordinary skill in the art at the time of the

invention to include employing a first and second opposing web construction during the initial attaching operation and bringing the webs together for pouch formation as taught by Herber et al. in the invention to Van Erden et al. as a alternate method of obtaining a pouch with opposing sides.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher R Harmon/  
Primary Examiner, Art Unit 3721